

Eureka Unified School District 389

216 N. Main

Eureka, Kansas 67045

316-583-5588

February 13, 2001

Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Room TW-A325

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Reference: FCC Docket Nos. 96-45 and 97-21/

In the matter of: Request for Review by Leo Davis, for Eureka Unified School District 389, Eureka, Kansas, of Decision of Universal Service Administrator

Dear Sirs:

The purpose of this correspondence is to appeal a decision on an E-Rate form 471 request for funding. In discussing the appeal the following information may be helpful:

Contact Person: Leo Davis
Address: 216 North Main, Eureka, KS 67045
Office Phone: 316 - 583 - 5588
Fax Number: 316 - 583 - 8200
E-Mail address: ldavis@389ks.org

Funding Decision Letter: Year 3 (7/01/2000 - 7/01/2001)
Applicant Name: Eureka Unified School Dist 389
Form 471 App. Number: 182840
Billed Entity Number: 137852

Funding Request Number being appealed: 406031
Service Provider: Twotrees Technologies, L.L.C. SPIN: 143004463
Pre-discount Amount: \$19,200

Funding Status: Not Funded Decision Explanation: 30% or more of this FRN includes requests for filtering and management services which are ineligible products based on program rules.

Rationale for Appeal

1. No filtering services were included in the FRN. As support we have enclosed a copy of the original documentation sent with the 471 certification copy. The total amount we pay Twotrees Technologies is \$24,000. The filtering fee totals \$4,800. It was deducted prior to the funding request. (\$24,000 - \$4,800 = \$19,200) Please note that the USAC **AGREED** with this statement in its Rationale for Decision on Appeals which is attached: "PIA had overlooked this fact and partially denied this request due to Filtering being included which it is not."

2. In denying our appeal, the USAC claims that this request is actually two requests. NOT TRUE! It was filed with one provider, on one block 5 certification, with one FRN number. The extended conversation about Firewall services, etc. only occurred as a result of the

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USAC's oversight in its original denial of the application. One request. One fee paid to TwoTrees Technologies. Service explanations were only provided upon request when the USAC erroneously denied the request for funding of eligible services.

3. Put simply, the Eureka School District pays TwoTrees technologies \$2,000 a month. We receive and pay ONE invoice. In applying for E-rate assistance, we pulled out the "Filtering" part of the fee because it was ineligible. (Ironically, considering the recent CHIP legislation now requiring filtering.) That made our request \$19,200. One request. One FRN. We were later informed that the "Firewall Services" were ineligible. Those fees are approximately \$3,000. That amount (\$3,000) constitutes only 15.6% of the total request. Approximately half of the allotted 30% under USAC guidelines.

In summary, this situation arises out of a misinterpretation of our appeal. The USAC claims that our request is actually TWO. It is not. All of the bureaucratic jargon about Firewall services, etc. completely misses the point. This is one service. It was submitted with one FRN. It was one request.

It would be a travesty of the program to deny our school district the funds to provide quality internet access to our students based on the USAC's original oversight of the Filtering costs which WERE excluded from the original application. This is nothing more than a bureaucratic catch-22 caused by the original misreading of our request, and a subsequent misinterpretation of the facts provided in our USAC appeal.

The Eureka school district is a perfect example of the situation that this program was designed to eliminate. We are a rural Kansas school. We service approximately 800 students in grades 1 through 12. Fifty percent of our elementary school students receive free or reduced lunches. For those reasons we would appreciate careful consideration of our appeal request. Thank you in advance for your time and effort.

Sincerely yours,

A handwritten signature in black ink that reads "Leo Davis". The signature is fluid and cursive, with the first letters of "Leo" and "Davis" being capitalized and prominent.

Leo Davis
Director of Technology

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RATIONALE FOR DECISION ON APPEALS

Application Number: 182840

Applicant Name: EUREKA UNIFIED SCHOOL DIST 389

FRN Number: 406031 Initial Service: Post Discount \$ Appealed: \$0.00
 Initial Decision: DENIED Appeal Decision: Meritorious Dollars: \$0.00
 PIA Comments: 30% or more of this FRN includes requests for filtering and management services which are ineligible products based on program rules.

Relevant Background and Rationale for Initial Decision:

During the initial review of this funding request it was discovered as per the supporting documentation (attachment twenty-one). The request includes Management fees and Filtering services with Internet access. PIA determined from the service Matrix that management fees and filtering services are ineligible. PIA then denied this request because the ineligible portion was greater than 30% of the total funding request.

Issue Raised on Appeal:

On appeal, the appellant states: "No filtering services were included in the request. The total yearly amount we pay is \$24,000.00. The filtering fee equals \$4800.00. It was deducted prior to the funding request. The management fees portion of our attachment is as follows: \$7200.00 requested, Firewall Services equal \$3000.00, E-mail, Webpage Hosting, DNS equals \$4200.00. It would appear that the only part of this management fee that is ineligible is the Firewall. This constitutes 15.6% of the funding request. We request that \$16,200.00 be granted on appeal. This amount constitutes the \$12,000.00 a year for a frame relay internet service and \$4200.00 for Email, hosting and DNS fee. At the least we would ask that the discount be granted on the \$12,000.00 a year we pay directly for a frame relay and Internet access."

Rationale for Appeal Decision:

Upon the review of the appeal, it was determined from the original documentation (attachment twenty-one) sent with the Form 471 for this request that the cost for the Filtering fee was listed as an ineligible amount by the appellant on Block 5, Item 23 in the calculations, this cost was \$400.00 per month, or \$4800.00 per year. PIA had overlooked this fact and partially denied this request due to Filtering being included which it is not. The Management fees as listed on the attachment twenty one support reflect \$7200.00 as a separate cost, and are not included in the \$12,000.00 a year request for Frame Relay Internet access. The appellant breaks down the cost of \$7200.00 for these fees on appeal, consisting of eligible services: Email, Webpage Hosting and DNS (if bundled with access) and also ineligible services (Firewall) bundled or not. It is noted at this point what the appellant has stated on appeal that the only service that is considered ineligible according to the support given on appeal is the Firewall portion of the Management fees this is indeed true. However what the appellant does not mention is these services; Management Fees, cannot be requested as a stand alone item, for these fees to be considered eligible (aside from the ineligible Firewall service as discussed on appeal for \$3000.00 out of the \$7200.00 requested) they would need to be "bundled" into the request for Frame Relay Internet access for \$12,000.00 per year. PIA denied this request for ineligible services as per the Matrix (Management fees and Filtering). On appeal it is found that the filtering was not included in the total request \$19,200.00. But the Management Fees although eligible if "bundled" were not bundled they were listed as a separate cost being billed on a separate invoice from the provider (refer to documentation from vendor dated April 26, 2000 from Susie D. Smith) and listed as a cost for \$7200.00 by the appellant on the original support attachment for this request. Therefore, they are all considered ineligible as per the Matrix, in the amount of \$7200.00 which is greater than 30% of the total request. (30% of \$19,200.00 = \$5760.00) not just the Firewall Service for \$3000.00 as the appellant suggests on appeal.

Appeal is denied in full.



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal
Funding Year Three (June 30, 2000 – July 31, 2001)

February 5, 2001

Leo Davis
Eureka Unified School District 389
216 North Main Street
Eureka, KS 67045

Re: Billed Entity Number: 137852
471 Application Number: 182840
Funding Request Number(s): 406031
Your Correspondence Dated: April 27, 2000

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year Three Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 30-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 406031
Decision on Appeal: Denied in full
Explanation:

- You have stated on appeal that the ineligible Filtering costs of (\$4800.00) have been deducted prior to the funding request and do not apply. You have also stated that out of the cost requested for Management Fees (\$7200.00) the only service that is considered ineligible and should be removed from the total funding request is the Firewall Services that total \$3000.00. The remaining services in the Management fee: Email, Webpage Hosting and DNS are eligible and amount to \$4200.00. The amount that is ineligible for Firewall (\$3000.00) is less than 30% of the total funding request of \$19,200.00 per year, and should be removed from this request leaving a total of

\$16,200.00, which should be funded as eligible services. You conclude your appeal by stating at worst the \$12,000.00 a year request for Frame Relay Internet Access should be funded.

- In reviewing your appeal, it was determined from the supporting attachment included with this request (attachment twenty-one) and also from the additional support included with your appeal, that the total amount requested (\$19,200.00 which does not include the ineligible Filtering fee of \$4800.00 per year, as you have indicated on the Form 471) per year is broken down into two separate invoices from the service provider. One invoice is for the amount of \$12,000.00 per year for Frame Relay Internet access fee. The other invoice is for \$7200.00 per year for Management Fees, which include Email, Web Hosting, Firewall Service and DNS. Since this service request is not "bundled" within your request for Frame Relay Internet access it is considered to be ineligible services as per program rules (Firewall Service is considered ineligible even if bundled with Internet access). The cost for this service is greater than 30% of the total funding request ($\$7200.00/\$19,200.00=37.50\%$).
- Your Form 471 application included separate costs for the following services: **Management Fees.** The services included in the Management Fees are considered ineligible to receive funding because they are requested separate from the Frame Relay Internet access costs for \$12,000.00 per year. FCC rules provide that discounts may be approved only for eligible services. See 47 C.F.R. §§ 54.502, 54.503. The USAC website contains a list of eligible services. See USAC website, <http://www.universalservice.org>, Eligible Services List. Program procedures provide that if 30% or more of an applicant's funding request includes ineligible services, the funding request must be denied. More than 30% of your funding request was for ineligible services. Therefore, your funding request was denied. You did not demonstrate in your appeal that your application did NOT include less than a 30% request for ineligible services. Consequently, SLD denies your appeal.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. Before preparing and submitting your appeal, please be sure to review the FCC rules concerning the filing of an appeal of an Administrator's Decision, which are posted on the website at <www.universalservice.org>. You must file your appeal with the FCC no later than 30 days from the date on this letter for your appeal to be filed in a timely fashion.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

April 27, 2000

School and Libraries Division
Box 125 - Correspondence Unit
80 South Jefferson Road
Whippany, NH 07981

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Dear Sirs:

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2. This was the first year of our contract with TwoTrees Technologies. This company services educational entities exclusively. In preparing our 471 application we reviewed the procedure with them. Based on their experience with the USAC in previous years, we submitted the same information that other TwoTrees contracted districts had, and would submit again. In discussing this situation with TwoTrees after receiving your decision letter, it appears that the most significant criteria for issuing funding was the individual reviewing the application. Approximately 30% of the school districts were funded without question; another 30% received calls from a USAC

representative and were funded after an explanation of what the management fees included; the unfortunate remaining 30% were simply not funded out-of-hand. We are included in the latter.

3. In order to clarify the "management fees" portion of the TwoTrees statement, they have provided the following informative breakdown of the \$7,200 amount. (Again, please see attached letter dated December 29, 1999.)

Management Fee Breakdown:	Total:	\$7,200
	Firewall Services:	\$3,000
	E-mail, Webpage Hosting, DNS:	\$4,200

It would appear that the only part of the management fee that is not allowable is the Firewall Services, which totals \$3,000. That constitutes only 15.6% of the total FRN requested.

In conclusion we would request that the discount be granted on an amount of \$16,200. This amount constitutes the \$12,000 a year we pay directly for a 512k frame relay and internet access, and the \$4,200 e-mail, hosting and DNS fee. At worst we would ask that the discount be granted this year on the \$12,000 yearly amount that is directly paid for the frame relay and internet access.

The Eureka school district is a perfect example of the situation that this program was designed to eliminate. We are a rural Kansas school. We service approximately 800 students in grades 1 through 12. Fifty percent of our elementary school students receive free or reduced lunches. For those reasons we would appreciate careful consideration of our appeal request. Thank you in advance for your time and effort.

Sincerely yours,

Dr. Thomas K. Lawson
Superintendent of Schools



Leo Davis
Director of Technology



TWOTREES

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April 26, 2000

USD 389 Eureka
Attn: Leo Davis
216 N. Main Street

Eureka, KS 67045

Dear Leo,

Per our discussion of SLC funding, here is the breakdown of our charges. As of July 1st USD 389 will receive these services on two separate invoices.

Yearly District Management Fees (Email, Webpage Hosting, DNS)	4,200.00	
Firewall Services	3,000.00	
512k Frame Relay w/Internet Access	<u>12,000.00</u>	
	16,200.00	1,350.00/month
Filtering (not Erate Applicable)	4,800.00	400.00/month

Twotrees Technologies' SPIN number is 143004463. If you need assistance, just give me a call at 1-800-364-5700.

Sincerely yours,

Susie D. Smith
K-12 Product Specialist

Twotrees Technologies, LLC
A SageNet Company
3450 N. Rock Road, Suite 701
Wichita, Kansas 67226-1327
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